

UNITED STATES OF DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

KANE MARCEAUX, GREG CORMIER,
SCOTT POIENCOT, NORBERT MYERS,
GABE THOMPSON, NOVEY STELLY,
ULETOM P. HEWITT, REGINA BRISCOE
AND ALEETA M. HARDING

CIVIL ACTION NO: 6:12-cv-01532

VERSUS

JUDGE RICHARD T. HAIK, SR.

LAFAYETTE CITY-PARISH CONSOLIDATED
GOVERNMENT; LAFAYETTE POLICE
DEPARTMENT THROUGH THE LAFAYETTE
CITY-PARISH CONSOLIDATED
GOVERNMENT; LESTER JOSEPH "JOEY"
DUREL, JR. IN HIS CAPACITY AS PRESIDENT
OF THE LAFAYETTE CITY-PARISH
CONSOLIDATED GOVERNMENT; DEE
EDWARD STANLEY, INDIVIDUALLY AND IN
HIS CAPACITY AS CHIEF ADMINISTRATIVE
OFFICER OF THE LAFAYETTE CITY-PARISH
CONSOLIDATED GOVERNMENT; JAMES P.
"JIM" CRAFT, INDIVIDUALLY AND IN HIS
CAPACITY AS CHIEF OF THE LAFAYETTE
POLICE DEPARTMENT; AND GEORGE
"JACKIE" ALFRED, INDIVIDUALLY AND IN
HIS CAPACITY AS PATROL DIVISION
COMMANDER OF THE LAFAYETTE
POLICE DEPARTMENT

MAGISTRATE JUDGE PATRICK J. HANNA

MEMORANDUM IN SUPPORT OF MOTION TO MEMORIALIZE AND EXTEND
"STAND DOWN" ORDER, ALTERNATIVE MOTION FOR TEMPORARY
RESTRAINING ORDER/INJUNCTION,
OR ALTERNATIVE MOTION FOR STATUS CONFERENCE

Defendants present the Memorandum in support of the foregoing Motion as follows:

I. PERTINENT FACTS

As the Court knows, proceedings in this case have been in a hiatus pending action by the United States Circuit Court for the Fifth Circuit; however, recent events before another court have necessitated that Defendants take action. Specifically, Plaintiff Uletom Hewitt has three

appeals pending before the Lafayette Municipal Fire and Police Civil Service Board. The Board, of its own accord and absent any Motion by Defendants herein or any other party, stayed Hewitt's appeals, as well as the appeals of other Plaintiffs in the instant litigation, pending resolution of this case. In response, Hewitt, through separate counsel, filed a *Petition for Mandamus or Alternatively Petition for Appeal* in the 15th Judicial District Court for the Parish of Lafayette, State of Louisiana (Docket No. 20133504D), which came for hearing before the Honorable Judge Edward Rubin on September 23, 2013. Judge Rubin denied Hewitt's request for relief, agreeing with the Board's decision to stay Plaintiffs' pending Civil Service appeals.

Although Defendants did not request the Board to stay pending appeals of any Plaintiff, Hewitt named LCG (in addition to the Board) as Defendant, thereby requiring LCG to appear in court. Beyond filing a general denial and making a general appearance at the hearing, LCG took no position relative to Hewitt's Petition in the 15th Judicial District proceedings. Nevertheless, immediately following the September 23, 2013 hearing, Hewitt approached undersigned counsel (Michael Corry), who also represented LCG in those proceedings, and threatened: "Let me tell you something you m_____ f _____" as he placed his index finger on Corry's chest. Although Hewitt was thereafter restrained, he attempted to come after Corry a second time and had to be restrained further. Then, plaintiff, Stelly, walked with Corry to the elevator and said "I'm going to make sure he does not come this way". Thereafter, Hewitt's attorney, C. Theodore Alpaugh, III, approached Corry at the elevator and apologized profusely for Hewitt's actions. It has become apparent that a Court order is necessary to restrain further contact by any litigant against opposing counsel.

II. LAW, ARGUMENT, & REQUEST FOR RELIEF

Following a status conference in open court on September 5, 2012, the Court ordered the parties to "stand down" until the scheduled hearing on Defendants' Motion for Protective Order. During that eight-day period, the parties were ordered "not to directly correspond with each

other's clients.”¹ Based on the above-described events, Defendants urge the Court to formally memorialize its “stand down” order and extend that ruling to prevent litigants from contacting opposing counsel, physically or otherwise. Alternatively, Defendants request a temporary restraining order and injunction prohibiting litigants from contacting or physically touching any opposing counsel.² Defendants acknowledge that no court order in this regard should be necessary; however, as basic tenets of civility and decorum are apparently insufficient, Defendants urge the Court to consider Defendants’ request for relief. At least the Court should conduct a status conference to further establish rules governing acceptable contact among litigants and attorneys as the case proceeds.

Defendants further acknowledge that the United States Circuit Court for the Fifth Circuit is currently reviewing the Court’s Order vis-à-vis Plaintiffs’ website; however, per 28 U.S.C. 1292(b), an application for appeal of an interlocutory order shall not stay proceedings before the District Court absent an order from the District Court or Court of Appeals. Defendants are not aware of any formal order staying these proceedings. As such, Defendants submit the Court can consider this Motion and render a decision as requested.

¹ Sealed Transcript of September 5, 2013 proceedings, page 17. See also page 24.

² Should the Court consider Defendants’ Request for TRO/Injunction, rather than Defendants’ Motion to Memorialize/Extend “Stand Down” Order, Defendants will supplement this Motion with the appropriate security bond and other requirements of F.R.C.P. Rule 65.

Respectfully submitted:

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BY: s/ Michael P. Corry

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INDIVIDUALLY, AND GEORGE “JACKIE”
ALFRED, INDIVIDUALLY

CERTIFICATE

This is to certify that on September 27, 2013, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following:

springlaw@gmail.com

jca@jcalaw.us

ralexander@deep-south.com

hanna_orders@lawd.uscourts.gov

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant or pro se defendant:

None.

s/Michael P. Corry
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